

Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.654 OF 2025

IN

WRIT PETITION NO.5381 OF 2006

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Prakash Ganpat Mode

... Petitioner

V/s.

President /Secretary Mumbai

Pradesh Arya Vidya Sabha & Ors.

... Respondents

Mr. Prakash G. Mode, Petitioner – in – person.

Mr. Anupama B. Sha, for Respondent Nos.1 & 2.

Mr. S. H. Kankal, AGP, for the State – Respondent No.3.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 27, 2026

P.C.:

1. The petitioner has filed this contempt petition alleging that the respondents have disobeyed the judgment and order dated 12 March 2025 in Writ Petition No. 5381 of 2006. He contends that the non-compliance is deliberate. He seeks action under the Contempt of Courts Act. The petition sets out the history of the writ proceedings and the directions issued. It also narrates the subsequent steps taken by both sides after the judgment.

2. The respondents have filed an affidavit. They stated that they have complied with the judgment. The petitioner contests this position. He raises three objections. First. He claims that the subsistence allowance directed earlier has not been paid as per

law. He says that in the earlier round of litigation, a Division Bench had directed payment of subsistence allowance. He further says that this Court, while deciding the writ petition on 12 March 2025, noted that subsistence allowance had been paid. He calls this observation incorrect. He argues that he is entitled to subsistence allowance under Rule 34. He contends the respondents have paid leave encashment for only 105 days. He claims entitlement for 220 days. He contends that interest on arrears of GPF has not been released. He treats these three aspects as part of the direction issued in the writ proceedings and contends that the respondents have not fully complied.

3. I have considered the first objection relating to subsistence allowance. This Court, while deciding the writ petition, did not issue a specific direction regarding subsistence allowance. The petitioner seeks to reopen that issue in contempt jurisdiction. Contempt jurisdiction has a limited scope. This jurisdiction ensures obedience to clear and specific directions. It does not create new rights. It does not enlarge the scope of the original order. Unless the order contains a specific direction and there is willful non-compliance, contempt will not lie. Here, the claim for subsistence allowance flows from Rule 34 and from the earlier order of the Division Bench. The present judgment did not adjudicate that dispute nor direct payment. For this reason, contempt cannot be used for enforcing that claim.

4. Regarding the second objection relating to leave encashment, there is a factual dispute. The petitioner contends that he is entitled to 220 days. The respondents say they have paid

105 days. This calls for evidence. It calls for examination of service records and applicable rules. Such disputed factual issues cannot be decided in contempt. Contempt jurisdiction does not permit a mini-trial on service benefits.

5. Regarding the third objection on interest on GPF arrears, there is no direction in the judgment of 12 March 2025 directing payment of interest. This again requires adjudication before the competent forum. The petitioner must first prove his entitlement. Only then a direction can be issued. Contempt is not a substitute for adjudication. It operates only when there is deliberate breach of a clear direction.

6. I have examined the affidavit filed by the respondents. I am satisfied that the respondents have substantially complied with the operative directions of the judgment dated 12 March 2025. The petitioner may have surviving claims regarding service benefits. Those claims may involve interpretation of rules and examination of evidence. If the petitioner believes that part of the judgment has not been enforced, it is open to him to take appropriate proceedings for enforcement. He may approach the competent authority or the competent Court. He may seek appropriate reliefs in accordance with law. Contempt is not the appropriate remedy for these claims.

7. In view of the above, I hold that no case of willful disobedience is made out. The contempt petition is disposed of.

(AMIT BORKAR, J.)